

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

EAGLE HARBOR HOLDINGS, LLC, and
MEDIUSTECH, LLC,

Plaintiffs,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. 3:11-cv-05503-BHS

**STIPULATED MOTION TO FILE
DOCUMENTS UNDER SEAL**

NOTE ON MOTION CALENDAR:
March 10, 2014

Pursuant to Local Civil Rule CR(5)(g), Plaintiffs Eagle Harbor Holdings LLC and MediusTech LLC (collectively “Plaintiffs”) and Defendant Ford Motor Company (“Ford”) hereby submit this Stipulated Motion and [Proposed] Order to File Under Seal the parties’ Joint Discovery Submission Pursuant to LCR 37 Regarding Third Party Documents Plaintiffs Have Withheld as Privileged and certain documents in support of the Joint Submission. A redacted version of the Joint Submission will be filed publicly. The material sought to be sealed is listed below.

- 1. Unredacted Version of Joint Discovery Submission Pursuant to LCR 37 Regarding Third Party Documents Plaintiffs Have Withheld as Privileged.**

SAVITT BRUCE & WILLEY LLP
1425 Fourth Avenue Suite 800
Seattle, Washington 98101-2272
(206) 749-0500

2. **Declaration of Amy Leshan (“Leshan Declaration”) Exhibit 4:** Plaintiffs’ Answer to Ford’s Interrogatory 10, dated March 2, 2012.
3. **Leshan Declaration Exhibit 6:** Redacted email sent from Dan Preston to gbarker@rpxcorp.com on September 12, 20102, produced by Plaintiffs at bates number EHH0641610.
4. **Leshan Declaration Exhibit 10:** Redacted email sent from Dan Preston to gbarker@rpxcorp.com on September 5, 20102, produced by Plaintiffs at bates number EHH0641614.
5. **Leshan Declaration Exhibit 12:** Redacted email forwarded from Dan Preston to David Marsing, Jeff Harmes, and Sam Hemingway on September 12, 2012, produced by Plaintiffs at bates number EHH0641616.
6. **Leshan Declaration Exhibit 13:** Redacted email sent from Paul Reidy to Dan Preston on September 7, 2012, produced by Plaintiffs at bates number EHH0641781.
7. **Leshan Declaration Exhibit 14:** Redacted email sent from Dan Preston to David Marsing on September 11, 20102, produced by Plaintiffs at bates number EHH0641609.
8. **Leshan Declaration Exhibit 18:** Redacted email forwarded from Dan Preston to David Marsing, Jeff Harmes, and Sam Hemingway on September 7, 2012, produced by Plaintiffs at bates number EHH0641625.
9. **Leshan Declaration Exhibit 19:** Redacted email sent from Dan Preston to Geoff Barker on August 29, 2012, produced by Plaintiffs at bates number EHH0641640.
10. **Leshan Declaration Exhibit 21:** Redacted email sent from Dan Preston to gbarker@rpx.com and Paul Reidy on September 7, 2012, produced by Plaintiffs at bates number EHH0641769.
11. **Leshan Declaration Exhibit 22:** Redacted email sent from Paul Reidy to Dan Preston on September 7, 2012, produced by Plaintiffs at bates number EHH0641778.
12. **Leshan Declaration Exhibit 28:** Excerpts from the rough transcript of the February 14, 2014 Deposition of Daniel Preston.

13. **Declaration of Dan Preston (“Preston Declaration”), dated March 7, 2014.**
14. **Preston Declaration Exhibits 1-6:** Contractual Agreements between Eagle Harbor and independent contractors.
15. **Preston Declaration Exhibits 7-11:** Non-disclosure Agreements between Eagle Harbor and investors and potential investors.
16. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit B:** Excerpts from the Deposition of Dan Alan Preston Vol. III, dated February 14, 2014.
17. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit C:** Executed Manufacturing Agreement between Dan Preston and Earl Hughson, dated October 25, 2010.
18. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit D:** Patent Security Agreement signed by Dan Preston.
19. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit F:** Excerpts from the Deposition of Samuel Hemingway, dated February 27, 2014.
20. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit G:** Excerpts from the Deposition of Brian Hewitt, dated November 9, 2013.
21. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit H:** Email from Dan Preston to Paul Carlson and Sam Hemingway, dated March 16, 2010.
22. **Declaration of Jordan Connors (“Connors Declaration”) Exhibit I:** Excerpts of Plaintiffs’ First Supplemental Objections and Responses to Defendant Ford Motor Company’s Second Set of Interrogatories to Plaintiffs.

These documents are submitted in support of the Parties’ Joint Discovery Submission Pursuant to LCR 37 Regarding Third Party Documents Plaintiffs Have Withheld as Privileged. The documents sought to be sealed relate to (1) Plaintiffs’ interrogatory responses that have been designated “Attorneys Eyes Only” under the parties’ Confidentiality Agreement; (2) communications between Plaintiffs and RPX Corporation that have been designated “Attorneys Eyes Only” under the parties’ Confidentiality Agreement; (3) excerpts from the transcripts of

the depositions of Dan Preston, Samuel Hemingway, and Brian Hewitt, which have been designated “Confidential” under the parties’ Confidentiality Agreement; (4) Declaration of Plaintiffs’ CEO, Dan Preston, which has been designated “Confidential” under the parties’ Confidentiality Agreement; (5) Plaintiffs’ contracts and Non-Disclosure Agreements with third parties, which have been designated “Confidential” under the parties’ Confidentiality Agreement; and (6) an email between Plaintiffs’ employees, which has been designated “Confidential” under the parties’ Confidentiality Agreement. In addition, the parties seek to redact the portions of their Joint Submission that quote from these documents in the version filed publicly, and file an unredacted version under seal. The parties have stipulated that the sensitive material contained in documents so designated merits filing under seal.

Open discovery is favored in this district, and there is a presumption of access to publically-filed documents. LCR 5(g). The confidential and sensitive nature of the material discussed in these documents, however, is good cause to keep the documents under seal. *See Myhrvold v. Lodsys Grp., LLC*, C13-1173 RAJ, 2013 WL 5488791, at *4 (W.D. Wash. Sept. 27, 2013) (party must show good cause to keep documents under seal); CR 5(g)(2); *see EEOC v. Fry’s Elecs., Inc.*, No C10-1562RSL, 2012 WL 1642305, *5 (W.D. Wash. May 10, 2012) (finding good cause for sealing personnel records of third parties); *Boucher v. First Am. Title Ins. Co.*, No. C10-199RAJ, 2011 WL 5299497, *5 (W.D. Wash. Nov. 4, 2011) (finding good cause and granting motion to seal a party’s competitively sensitive licenses with a third party; noting that redactions were limited to very specific portions of documents). The parties respectfully request that the Joint Discovery Submission Pursuant to LCR 37 Regarding Third Party Documents Plaintiffs Have Withheld as Privileged and certain documents in support of the Joint Submission be filed under seal.

DATED: March 10, 2014

SAVITT BRUCE & WILLEY LLP

By: /s/ Duncan E. Manville
Duncan E. Manville, WSBA #30304
Tel.: (206) 749-0500
Fax: (206) 749-0600
Email: dmanville@sbwllp.com

BROOKS KUSHMAN P.C.

Frank A. Angileri (*pro hac vice*)
John S. Le Roy (*pro hac vice*)
1000 Town Center, 22nd Floor
Southfield, Michigan 48075
Tel.: (248) 358-4400
Fax: (248) 358-3351
Email: fangileri@brookskushman.com
jleroy@brookskushman.com

Attorneys for Defendant Ford Motor Company

SUSMAN GODFREY L.L.P.

By: /s/ Floyd AG. Short
1201 Third Avenue, Suite 3800
Seattle, WA 98101
Tel.: (206) 516-3861
Fax: (206) 516-3883
Parker C. Folse III, WSBA #24895
Ian B. Crosby, WSBA #28461
Floyd G. Short, WSBA #21632
Genevieve Vose Wallace, WSBA #38422
Patrick C. Bageant, WSBA #44268
E. Lindsay Calkins, WSBA #44127
Email: pfolse@susmangodfrey.com
icrosby@susmangodfrey.com
fshort@susmangodfrey.com
gvose@susmangodfrey.com
pbageant@susmangodfrey.com
lcalkins@susmangodfrey.com

Attorneys for Plaintiffs

SAVITT BRUCE & WILLEY LLP
1425 Fourth Avenue Suite 800
Seattle, Washington 98101-2272
(206) 749-0500

IT IS SO ORDERED.

Dated this 7th day of April, 2014.

A handwritten signature in black ink, appearing to read "Benjamin H. Settle", is written over a horizontal line.

BENJAMIN H. SETTLE
United States District Judge